

# **2013 DRAFTING REQUEST**

## **Bill**

Received:	<b>3/19/2013</b>	Received By:	<b>emueller</b>
Wanted:	<b>As time permits</b>	Same as LRB:	
For:	<b>Peter Barca (608) 266-5504</b>	By/Representing:	<b>Matt Egerer</b>
May Contact:		Drafter:	<b>emueller</b>
Subject:	<b>Transportation - mass trnst/rail Transportation - traffic laws</b>	Addl. Drafters:	
		Extra Copies:	<b>ARG</b>

Submit via email: **YES**  
 Requester's email: **Rep.Barca@legis.wisconsin.gov**  
 Carbon copy (CC) to:

## **Pre Topic:**

No specific pre topic given

## **Topic:**

Pedestrians crossing railroad tracks; penalties for railroad crossing violations

## **Instructions:**

See attached

## **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 4/17/2013			_____			
/P1	emueller 6/13/2013	scalvin 4/19/2013	rschluet 4/19/2013	_____	lparisi 4/19/2013		
/P2	emueller 7/8/2013	scalvin 6/14/2013	phenry 6/17/2013	_____	lparisi 6/17/2013		State S&L
/P3	emueller	jdyer	jmurphy	_____	sbasford		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	12/19/2013	7/10/2013	7/10/2013	_____	7/10/2013		S&L
/P4	emueller 1/24/2014	scalvin 12/19/2013	jmurphy 12/19/2013	_____	sbasford 12/19/2013		State S&L
/1		scalvin 1/24/2014	jmurphy 1/24/2014	_____	lparisi 1/24/2014	lparisi 1/24/2014	State S&L

FE Sent For:

*at intro  
2/20*

<END>

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## **Topic:**

Pedestrians crossing railroad tracks; penalties for railroad crossing violations

## **Instructions:**

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## Topic:

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/P4		scalvin	jmurphy	_____	sbasford		State
		12/19/2013	12/19/2013	_____	12/19/2013		S&L

/ 1 *Eva*  
 1/24/14  
 FE Sent For:

/ 1 *sac*  
 01/24/2014

/ 1 *sac*  
 01/24/2014

*jm*  
 1/24

<END>

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Pedestrians crossing railroad tracks; penalties for railroad crossing violations ✓

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See attached

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/P3		jdyer	jmurphy	_____	sbasford		State
		/P4 sac 12/19/2013	/P4 sac 12/19/2013	jm sac 12/19			

Vers. DraftedReviewed  
7/10/2013Typed  
7/10/2013Proofed  
\_\_\_\_\_Submitted  
7/10/2013JacketedRequired  
S&L

FE Sent For:

&lt;END&gt;



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Transportation - traffic laws Extra Copies: ARG

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See attached

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/P1	emueller 6/13/2013	scalvin 4/19/2013	rschluet 4/19/2013		lparisi 4/19/2013		
/P2		scalvin 6/14/2013	phenry 6/17/2013		lparisi 6/17/2013		State S&L

*/P3 ERM  
7/8/13*

FE Sent For:

**<END>**

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### Instructions:

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/?	emueller 4/17/2013						
/P1	emueller	scalvin 4/19/2013	rschluet 4/19/2013		lparisi 4/19/2013		
1P2	EMU 6/13/13 FE Sent For:	1P2 SAC 06/14/2013	6/14 ph	PHY EF			

<END>

## Mueller, Eric

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**From:** Egerer, Matt  
**Sent:** Monday, May 20, 2013 2:00 PM  
**To:** Mueller, Eric  
**Subject:** RE: Draft review: LRB -1936/P1 Topic: Pedestrians and railroad crossings

Eric,

I've gotten some feedback on this draft in response to your note and have some additional modifications as well.

1. We would like to expand the definition beyond railroad crossings to any pedestrian crossing a railroad other than legally at a crossing. The language I've been given from another state is here:

"Whoever, without lawful authority or the railroad carrier's consent, enters or remains upon railroad property except for the purpose of crossing such property at a public highway or other authorized crossing, shall be guilty of a misdemeanor. [Next, add your language re 346.445 which would cover the crossings]

2. Include the railroad crossing improvement surcharge for this as well.
3. Delay the effective date 3 months.

### Penalties:

If I'm not mistaken, the penalty for a violation of 346.44 is a maximum forfeiture of \$1,000, but bicyclists are capped at \$40 (under 346.49(2m)(a)) and a driver who violates 346.45 is subject to a forfeiture between \$60 and \$600.

As drafted, this calls for a penalty for 346.445 to be between \$10 – 100. We would like to increase the penalty to between \$75 – and \$250.

We would also like the penalties for bikes for violating 346.44 and 346.445, to be at the same \$75 - \$250 bracket.

Also, we would like the fines for 346.44, 346.445, and 346.45 violations to be tripled for subsequent offenses.

Finally, drivers who violate 346.44 should have to take a driving safety class and pass a written exam on railway safety.

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504

## **2013 DRAFTING REQUEST**

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For: **Peter Barca (608) 266-5504** By/Representing: **Matt Egerer**  
May Contact: Drafter: **emueller**  
Subject: **Transportation - mass trnst/rail** Addl. Drafters:  
**Transportation - traffic laws** Extra Copies: **ARG**

Submit via email: **YES**  
Requester's email: **Rep.Barca@legis.wisconsin.gov**  
Carbon copy (CC) to:

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### **Pre Topic:**

No specific pre topic given

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### **Topic:**

Pedestrians and railroad crossings

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### **Instructions:**

See attached

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 4/17/2013			_____			
/P1		scalvin 4/19/2013	rschluet 4/19/2013	_____	lparisi 4/19/2013		

FE Sent For:

**<END>**

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Subject:	<b>Transportation - mass trnst/rail Transportation - traffic laws</b>	Addl. Drafters:	
		Extra Copies:	<b>ARG</b>

Submit via email: **YES**  
 Requester's email: **Rep.Barca@legis.wisconsin.gov**  
 Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given


**Topic:**

Pedestrians and railroad crossings

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller			_____			
/PI EVM		/PI SAC					
4/17/13		04/19/2013	4/19/13				
FE Sent For:							

<END>

**Mueller, Eric**

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**From:** Egerer, Matt  
**Sent:** Monday, March 18, 2013 12:28 PM  
**To:** Gary, Aaron; Mueller, Eric  
**Subject:** Draft - Amendment to Section 346.44  
**Attachments:** Scan0011.pdf

Aaron or Eric (or whoever is most appropriate),

We'd like to request this draft relating to railroad crossings.

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504

The Title of Section 346.44 is amended to read :

**346.44 All vehicles and pedestrians to stop at signal indicating approach of train.**

SECTION 346.44(3),(4) & (5) of the statutes is created to read:

(3 ) No pedestrian shall enter on or across a railroad crossing:

(a) Under any of those circumstances in subsections (1) (a) and (c).

(b) While any warning device signals to stop, except after stopping and investigating finds no railroad train or railroad track equipment occupies or is approaching the crossing the pedestrian may proceed.

(4) No pedestrian shall cross through, around, over or under any crossing gate or barrier at a railroad crossing while such gates or barrier is closed or is being opened or closed.

(5) No pedestrian shall cross through, around, climb over or under a railroad train or track equipment while the railroad train or track equipment occupies the crossing.

SECTION 349.49 2m (c) is created to read:

(c) Any pedestrian violating 346.44(3) to (5) may be required to forfeit not less than \$10 nor more than \$100.



**346.44 All vehicles to stop at signal indicating approach of train.**

(1) The operator of a vehicle shall not drive on or across a railroad crossing under any of the following circumstances:

(a) While any traffic officer or railroad employee signals to stop;

(b) While any warning device signals to stop, except that if the operator of the vehicle after stopping and investigating finds that no railroad train or railroad track equipment is approaching the operator may proceed.

(c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the crossing, while any railroad train or railroad track equipment occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.

(2) The operator of a vehicle shall not drive through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

**History:** 1991 a. 316; 2005 a. 95; 2011 a. 101.



(DNote)  
**State of Wisconsin**  
**2013 - 2014 LEGISLATURE**



LRB-1936/P1

EVM: /:....

sac

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

(RMR)

(In 4/17/13)

- 1      <sup>(gen)</sup> AN ACT ...; relating to: pedestrians and railroad crossings and providing a  
2      penalty.

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***Analysis by the Legislative Reference Bureau***

Under current law, the operator of a vehicle may not drive across a railroad crossing while a traffic officer or railroad employee signals to stop, while a warning device signals to stop, or while a train is in or near the crossing. Also under current law, the operator of a vehicle may not drive through, around, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

X      This bill applies similar prohibitions to pedestrians. Specifically, this bill prohibits a pedestrian from crossing a railroad crossing while a traffic officer or railroad employee signals to stop, while a warning device signals to stop, or while a train is in or near the crossing, and prohibits a pedestrian from crossing through, around, over, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. This bill also prohibits a pedestrian from crossing through or around or climbing over or under a train while the train occupies a railroad crossing. A person who violates any of these provisions related to pedestrians crossing railroad crossings may be required to forfeit not less than \$10 nor more than \$100.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 346.445 of the statutes is created to read:

**346.445 Limitations on pedestrians crossing at railroad crossings.**

(1) No pedestrian may enter or cross a railroad crossing under any of the following circumstances:

(a) While a traffic officer or railroad employee signals to stop.

(b) While a warning device signals to stop, except that if the pedestrian after stopping and investigating finds that no railroad train or railroad track equipment is approaching, the pedestrian may proceed.

(c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the crossing, while a railroad train or railroad track equipment occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.

(2) No pedestrian may cross through, around, over, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

(3) No pedestrian may cross through or around or climb over or under a railroad train or railroad track equipment while the railroad train or railroad track equipment occupies a railroad crossing.

**SECTION 2.** 346.49 (2m) (c) of the statutes is created to read:

346.49 (2m) (c) Any person violating s. 346.445 may be required to forfeit not less than \$10 nor more than \$100.

**(END)**

## 1 Note

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1936/P1dn

EVM:/:....

Sac

-date-

ATTN: Matt Egerer

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. The term "railroad crossing" as used in ch. 346 may not cover all places where rails cross a sidewalk. Do you intend to cover more areas than are included in the term "railroad crossing?"

2. Do you want the railroad crossing improvement surcharge under s. 346.495 to be imposed upon persons who violate the pedestrian railroad crossing provisions in this draft? Violations of s. 346.44 and (45), for example, are subject to the surcharge.

3. Do you want to provide a delayed effective date?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: eric.mueller@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1936/P1dn  
EVM:sac:rs

April 19, 2013

ATTN: Matt Egerer

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. The term "railroad crossing" as used in ch. 346 may not cover all places where rails cross a sidewalk. Do you intend to cover more areas than are included in the term "railroad crossing?"
2. Do you want the railroad crossing improvement surcharge under s. 346.495 to be imposed upon persons who violate the pedestrian railroad crossing provisions in this draft? Violations of ss. 346.44 and 346.45, for example, are subject to the surcharge.
3. Do you want to provide a delayed effective date?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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E-mail: [eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)



(DNote)  
**State of Wisconsin**  
**2013 - 2014 LEGISLATURE**



LRB-1936/P1 P2  
EVM:sac:rs

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

(RMR)

(INSERTS)

(In 6/13/13)

per

gen cat

- 1 **AN ACT to create** 346.445 and 346.49 (2m) (c) of the statutes; **relating to:**  
crossing railroad tracks
- 2 pedestrians and railroad crossings and providing a penalty.  
penalties for violations related to

***Analysis by the Legislative Reference Bureau***

Under current law, the operator of a vehicle may not drive across a railroad crossing while a traffic officer or railroad employee signals to stop, while a warning device signals to stop, or while a train is in or near the crossing. Also under current law, the operator of a vehicle may not drive through, around, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

This bill applies similar prohibitions to pedestrians. Specifically, this bill prohibits a pedestrian from crossing a railroad crossing while a traffic officer or railroad employee signals to stop, while a warning device signals to stop, or while a train is in or near the crossing, and prohibits a pedestrian from crossing through, around, over, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. This bill also prohibits a pedestrian from crossing through or around or climbing over or under a train while the train occupies a railroad crossing. A person who violates any of these provisions related to pedestrians crossing railroad crossings may be required to forfeit not less than \$10 nor more than \$100.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

INS  
Analysis

SECTION 1. 346.445 of the statutes is created to read:

**346.445 Limitations on pedestrians crossing <sup>g</sup>at railroad ~~crossings~~ <sup>tracks</sup>**

<sup>NS</sup> <sup>2-2</sup> <sup>3</sup> <sup>2</sup> <sup>2</sup> No pedestrian may enter or cross a railroad crossing under any of the following circumstances:

(a) While a traffic officer or railroad employee signals to stop.

(b) While a warning device signals to stop, except that if the pedestrian after stopping and investigating finds that no railroad train or railroad track equipment is approaching, the pedestrian may proceed.

(c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the crossing, while a railroad train or railroad track equipment occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.

<sup>3</sup> <sup>3</sup> <sup>2</sup> No pedestrian may cross through, around, over, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

<sup>3</sup> <sup>4</sup> <sup>2</sup> No pedestrian may cross through or around or climb over or under a railroad train or railroad track equipment while the railroad train or railroad track equipment occupies a railroad crossing.

SECTION 2. 346.49 (2m) (c) of the statutes is created to read:

346.49 (2m) (c) Any person violating s. 346.445 may be required to forfeit not less than \$10 <sup>\$75</sup> nor more than \$100 <sup>\$250</sup> for the first offense and

(END)

not less than \$225 <sup>225</sup> nor more than \$750 for the 2nd or subsequent conviction within a year

Note

**2013-2014 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1936/P2ins  
EVM:sac:rs

1           INS-Analysis-1

2

Under current law, the operator of a vehicle may not drive on or across a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. In addition, the operator of a vehicle may not drive through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. A person who violates any of these prohibitions may be required to forfeit not more than \$1,000, except the maximum forfeiture for a bicyclist or operator of an electric personal assistive mobility device is \$40.

Current law also requires the operator of certain vehicles, including school buses, motor buses, and vehicles that are transporting certain hazardous substances, with limited exceptions, to stop within 50 feet but not less than 15 feet from the nearest track and take certain precautions before proceeding to ensure that a train is not approaching. An operator who fails to comply with this requirement may be required to forfeit not less than \$60 nor more than \$600.

Current law also imposes, with exceptions, liability on the owner of a vehicle that is observed violating either of the railroad crossing provisions. The penalty imposed on the owner under this provision is the same as the penalty for the underlying railroad crossing violation.

Current law also provides that a railroad crossing improvement assessment be imposed on any person found to have violated traffic laws relating to railroad crossings. The amount of the assessment is equal to <sup>50 percent</sup> (50%) of the amount of the forfeiture that is imposed upon conviction. The money collected from the assessment must be used to fund railroad crossing protection improvements, such as automatic signals or other warning devices, and their maintenance.

This bill creates limitations on the use of railroad crossings and on crossing railroad tracks by pedestrians. Under this bill, a pedestrian may not enter or remain on railroad tracks except when crossing at a railroad crossing. This bill also prohibits a pedestrian from crossing a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. The bill also prohibits a pedestrian from crossing through, around, over, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed or a railroad train while the train occupies a railroad crossing. A person who violates any of the provisions related to pedestrians crossing railroad crossings or railroad tracks may be required to forfeit not less than \$75 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction within a year. A person who



violates any of these provisions in also subject to the railroad crossing improvement assessment.

This bill also increases the penalty for railroad crossing violations committed by a bicyclist or operator of an electric personal assistive mobility device to not less than \$75 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction within a year. The bill also triples minimum and maximum penalties for 2nd or subsequent convictions committed within a year for other railroad crossing violations.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

INS 2-2

§

(1) No pedestrian may enter or remain upon any track upon which railroad trains or railroad track equipment operate other than to cross at a railroad crossing.

INS 2-17

**SECTION 1.** 346.49 (2m) (a) of the statutes is amended to read:

346.49 (2m) (a) Unless otherwise provided in par. (b), any person violating s. 346.44 may be required to forfeit not more than \$1,000 for the first offense and not more than \$3,000 for the 2nd or subsequent conviction within a year.

**History:** 1971 c. 278; 1973 c. 182; 1981 c. 168; 1983 a. 27, 175; 1985 a. 186; 1993 a. 198; 1995 a. 424; 1997 a. 135, 237, 277; 2001 a. 90; 2003 a. 209.

**SECTION 2.** 346.49 (2m) (am) of the statutes is amended to read:

346.49 (2m) (am) Any person violating s. 346.45 shall forfeit not less than \$60 nor more than \$600 for the first offense and not less than \$180 nor more than \$1,800 for the 2nd or subsequent conviction within a year.

**History:** 1971 c. 278; 1973 c. 182; 1981 c. 168; 1983 a. 27, 175; 1985 a. 186; 1993 a. 198; 1995 a. 424; 1997 a. 135, 237, 277; 2001 a. 90; 2003 a. 209.

**SECTION 3.** 346.49 (2m) (b) of the statutes is amended to read:

346.49 (2m) (b) Any operator of a bicycle or electric personal assistive mobility device violating s. 346.44 may be required to forfeit not less than \$75 nor more than

1     \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd  
2     or subsequent conviction within a year.

3     History: 1971 c. 278; 1973 c. 182; 1981 c. 168; 1983 a. 27, 175; 1985 a. 186; 1993 a. 198; 1995 a. 424; 1997 a. 135, 237, 277; 2001 a. 90; 2003 a. 209.

4  
5     INS 2-20

6  
7     **SECTION 4.** 346.49 (2r) (a) of the statutes is amended to read:

8     346.49 (2r) (a) A vehicle owner or other person found liable under s. 346.452  
9     with respect to a violation of s. 346.44 may be required to forfeit not more than \$1,000  
10    for the first offense and not more than \$3,000 for the 2nd or subsequent conviction  
11    within a year, except that, if the vehicle involved in the violation was a bicycle, the  
12    bicycle owner or other person may be required to forfeit not less than \$75 nor more  
13    than \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the  
14    2nd or subsequent conviction within a year.

15    History: 1971 c. 278; 1973 c. 182; 1981 c. 168; 1983 a. 27, 175; 1985 a. 186; 1993 a. 198; 1995 a. 424; 1997 a. 135, 237, 277; 2001 a. 90; 2003 a. 209.

16    **SECTION 5.** 346.49 (2r) (b) of the statutes is amended to read:

17    346.49 (2r) (b) A vehicle owner or other person found liable under s. 346.452  
18    with respect to a violation of s. 346.45 shall forfeit not less than \$60 nor more than  
19    \$600 for the first conviction and not less than \$180 nor more than \$1,800 for the 2nd  
20    or subsequent conviction within a year.

21    History: 1971 c. 278; 1973 c. 182; 1981 c. 168; 1983 a. 27, 175; 1985 a. 186; 1993 a. 198; 1995 a. 424; 1997 a. 135, 237, 277; 2001 a. 90; 2003 a. 209.

22    **SECTION 6.** 346.49 (2v) of the statutes is created to read:

23    346.49 (2v) The court may order a person subject to to sub. (2m) (a) to  
24    participate in driver safety education and satisfactorily complete a written  
25    examination on railroad safety.

26    **SECTION 7.** 346.495 (1) (a) of the statutes is amended to read:

1           346.495 (1) (a) If a court imposes a forfeiture under s. 346.49 (1g) or (2m) (a),  
2           (am), ~~or (b)~~, or (c) for a violation of s. 346.44, 346.445, 346.45, or 346.46 (3), the court  
3           shall also impose a railroad crossing improvement surcharge under ch. 814 equal to  
4           50% of the amount of the forfeiture.

History: 1997 a. 135, 237; 2003 a. 33, 139, 209, 326, 327.

5           **SECTION 8. Initial applicability.**

6           (1) This act first applies to violations committed on the effective date of this  
7           subsection, but does not preclude the counting of other violations as prior violations  
8           for purposes of sentencing a person.

9           **SECTION 9. Effective date.**

10          (1) This act takes effect on the first day of the third month beginning after  
11          publication.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1936/P2dn

EVM:sac:rs

Late

ATTN: Matt Egerer

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Please review my formulation of s. 346.445 (1) to ensure it meets your intent. I did not use the provided language for a few reasons. First, the provided language appears to go significantly beyond what I understand to be your intent. The reference to "railroad property" in the provided material would likely encompass more than railroad tracks and would, therefore, constitute more of a trespass-style prohibition than a traffic violation. Second, I am not certain that all railroad tracks can properly be described as "railroad property." The provision I drafted, therefore, is specifically directed at, and limited to, railroad tracks. Third, the definition of "railroad crossing" in s. 340.01 (47) is "the intersection of any highway or private road or driveway at grade with tracks upon which railroad track equipment or railroad trains operate." Unused rails would, therefore, have no railroad crossings. This draft would not restrict crossing of unused railroad tracks. Please let me know if you want any changes to this provision.

2. Also in regard to s. 346.445 (1), this bill would prohibit a pedestrian from crossing in-use railroad tracks at any location other than a railroad crossing. As I noted earlier, "railroad crossing" has a specific definition in ch. 346. Are there crossing areas, e.g. private sidewalks that intersect with tracks, that do not fit the definition of "railroad crossing" that you would nonetheless like to exempt from the prohibition in s. 346.445 (1)?

3. You requested tripled penalties for 2nd and subsequent violations of railroad crossing violations. This draft would apply these penalties to a 2nd or subsequent conviction within a year. Please let me know if you do not want this limited to within a year or if you have a different time frame in mind.

4. Your instructions do not specifically reference liability under s. 346.452 for observed violations of ss. 346.44 and 346.45. This bill triples the amounts for 2nd and subsequent convictions within a year under s. 346.452. Please let me know if this is not what you intend.

5. This draft delays the effective date for the entire draft for 3 months. Do you instead want the delayed effective date to apply only to the pedestrian provisions?

6. Please review s. 346.49 (2v), as created in this draft, to ensure the provision meets your intent. Do you want this provision to be mandatory? Do you want the provision to apply only to non-motorcycle and non-EPAMD violations of s. 346.44?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: [eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1936/P2dn  
EVM:sac:ph

June 17, 2013

ATTN: Matt Egerer

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Please review my formulation of s. 346.445 (1) to ensure it meets your intent. I did not use the provided language for a few reasons. First, the provided language appears to go significantly beyond what I understand to be your intent. The reference to "railroad property" in the provided material would likely encompass more than railroad tracks and would, therefore, constitute more of a trespass-style prohibition than a traffic violation. Second, I am not certain that all railroad tracks can properly be described as "railroad property." The provision I drafted, therefore, is specifically directed at, and limited to, railroad tracks. Third, the definition of "railroad crossing" in s. 340.01 (47) is "the intersection of any highway or private road or driveway at grade with tracks upon which railroad track equipment or railroad trains operate." Unused rails would, therefore, have no railroad crossings. This draft would not restrict crossing of unused railroad tracks. Please let me know if you want any changes to this provision.

2. Also in regard to s. 346.445 (1), this bill would prohibit a pedestrian from crossing in-use railroad tracks at any location other than a railroad crossing. As I noted earlier, "railroad crossing" has a specific definition in ch. 346. Are there crossing areas, e.g. private sidewalks that intersect with tracks, that do not fit the definition of "railroad crossing" that you would nonetheless like to exempt from the prohibition in s. 346.445 (1)?

3. You requested tripled penalties for 2nd and subsequent violations of railroad crossing violations. This draft would apply these penalties to a 2nd or subsequent conviction within a year. Please let me know if you do not want this limited to within a year or if you have a different time frame in mind.

4. Your instructions do not specifically reference liability under s. 346.452 for observed violations of ss. 346.44 and 346.45. This bill triples the amounts for 2nd and subsequent convictions within a year under s. 346.452. Please let me know if this is not what you intend.

5. This draft delays the effective date for the entire draft for 3 months. Do you instead want the delayed effective date to apply only to the pedestrian provisions?

6. Please review s. 346.49 (2v), as created in this draft, to ensure the provision meets your intent. Do you want this provision to be mandatory? Do you want the provision to apply only to non-motorcycle and non-EPAMD violations of s. 346.44?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: [eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

## Mueller, Eric

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**From:** Egerer, Matt  
**Sent:** Tuesday, June 25, 2013 11:18 AM  
**To:** Mueller, Eric  
**Subject:** RE: Draft review: LRB -1936/P1 Topic: Pedestrians and railroad crossings

Eric,

In response to your drafting note:

1. Ok
2. Ok
3. Apply to subsequent offenses within three years rather than one year.
4. Ok
5. Ok
6. Make this mandatory and apply to all violations.

Thanks again,

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504

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**From:** Egerer, Matt  
**Sent:** Monday, May 20, 2013 2:00 PM  
**To:** Mueller, Eric  
**Subject:** RE: Draft review: LRB -1936/P1 Topic: Pedestrians and railroad crossings

Eric,

I've gotten some feedback on this draft in response to your note and have some additional modifications as well.

1. We would like to expand the definition beyond railroad crossings to any pedestrian crossing a railroad other than legally at a crossing. The language I've been given from another state is here:

"Whoever, without lawful authority or the railroad carrier's consent, enters or remains upon railroad property except for the purpose of crossing such property at a public highway or other authorized crossing, shall be guilty of a misdemeanor. [Next, add your language re 346.445 which would cover the crossings]

2. Include the railroad crossing improvement surcharge for this as well.
3. Delay the effective date 3 months.

Penalties:

If I'm not mistaken, the penalty for a violation of 346.44 is a maximum forfeiture of \$1,000, but bicyclists are capped at \$40 (under 346.49(2m)(a)) and a driver who violates 346.45 is subject to a forfeiture between \$60 and \$600.



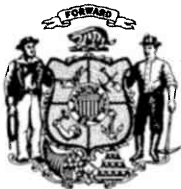
As drafted, this calls for a penalty for 346.445 to be between \$10 – 100. We would like to increase the penalty to between \$75 – and \$250.

We would also like the penalties for bikes for violating 346.44 and 346.445, to be at the same \$75 - \$250 bracket.

Also, we would like the fines for 346.44, 346.445, and 346.45 violations to be tripled for subsequent offenses.

Finally, drivers who violate 346.44 should have to take a driving safety class and pass a written exam on railway safety.

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1936/P2/P3  
EVM:sac:ph

L + jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

1- 7/8/13

PWF  
7/10  
jm

Soan

X

Regen

- 1 AN ACT *to amend* 346.49 (2m) (a), 346.49 (2m) (am), 346.49 (2m) (b), 346.49 (2r)  
2 (a), 346.49 (2r) (b) and 346.495 (1) (a); and *to create* 346.445, 346.49 (2m) (c)  
3 and 346.49 (2v) of the statutes; **relating to:** pedestrians crossing railroad  
4 tracks and penalties for violations relating to railroad crossings and providing  
5 a penalty.

*Analysis by the Legislative Reference Bureau*

Under current law, the operator of a vehicle may not drive on or across a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. In addition, the operator of a vehicle may not drive through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. A person who violates any of these prohibitions may be required to forfeit not more than \$1,000, except the maximum forfeiture for a bicyclist or operator of an electric personal assistive mobility device is \$40.

Current law also requires the operator of certain vehicles, including school buses, motor buses, and vehicles that are transporting certain hazardous substances, with limited exceptions, to stop within 50 feet but not less than 15 feet from the nearest track and take certain precautions before proceeding ~~to ensure that~~  
\* ~~a train is not approaching~~. An operator who fails to comply with this requirement  
\* may be required to forfeit not less than \$60 nor more than \$600.

Current law also imposes, with exceptions, liability on the owner of a vehicle that is observed violating either of the railroad crossing provisions. The penalty imposed on the owner under this provision is the same as the penalty for the underlying railroad crossing violation.

Current law also provides that a railroad crossing improvement assessment be imposed on any person found to have violated traffic laws relating to railroad crossings. The amount of the assessment is equal to 50 percent of the amount of the forfeiture that is imposed upon conviction. The money collected from the assessment must be used to fund railroad crossing protection improvements, such as automatic signals or other warning devices, and their maintenance.

This bill creates limitations on the use of railroad crossings and on crossing railroad tracks by pedestrians. Under this bill, a pedestrian may not enter or remain on railroad tracks except when crossing at a railroad crossing. This bill also prohibits a pedestrian from crossing a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. The bill also prohibits a pedestrian from crossing through, around, over, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed or a railroad train while the train occupies a railroad crossing. A person who violates any of the provisions related to pedestrians crossing railroad crossings or railroad tracks may be required to forfeit not less than \$75 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction within ~~year~~ <sup>year</sup>. A person who violates any of these provisions is also subject to the railroad crossing improvement assessment.

This bill also increases the penalty for railroad crossing violations committed by a bicyclist or operator of an electric personal assistive mobility device to not less than \$75 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction within ~~year~~ <sup>year</sup>. The bill also triples minimum and maximum penalties for 2nd or subsequent convictions committed within ~~year~~ <sup>year</sup> for other railroad crossing violations.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1 SECTION 1. 346.445 of the statutes is created to read:
- 2 **346.445 Limitations on pedestrians crossing railroad tracks.** (1) No
- 3 pedestrian may enter or remain upon any track upon which railroad trains or
- 4 railroad track equipment operate other than to cross at a railroad crossing.

and requires that a court require a person convicted of a railroad crossing violation participate in certain driver safety education <sup>on 2/4</sup>

(2) No pedestrian may enter or cross a railroad crossing under any of the following circumstances:

(a) While a traffic officer or railroad employee signals to stop.

(b) While a warning device signals to stop, except that if the pedestrian after stopping and investigating finds that no railroad train or railroad track equipment is approaching, the pedestrian may proceed.

(c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the crossing, while a railroad train or railroad track equipment occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.

(3) No pedestrian may cross through, around, over, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

(4) No pedestrian may cross through or around or climb over or under a railroad train or railroad track equipment while the railroad train or railroad track equipment occupies a railroad crossing.

**SECTION 2.** 346.49 (2m) (a) of the statutes is amended to read:

346.49 (2m) (a) Unless otherwise provided in par. (b), any person violating s. 346.44 may be required to forfeit not more than \$1,000 for the first offense and not more than \$3,000 for the 2nd or subsequent conviction within ~~a year~~ <sup>3 years</sup>.

**SECTION 3.** 346.49 (2m) (am) of the statutes is amended to read:

346.49 (2m) (am) Any person violating s. 346.45 shall forfeit not less than \$60 nor more than \$600 for the first offense and not less than \$180 nor more than \$1,800 for the 2nd or subsequent conviction within ~~a year~~.

**SECTION 4.** 346.49 (2m) (b) of the statutes is amended to read:

346.49 (2m) (b) Any operator of a bicycle or electric personal assistive mobility device violating s. 346.44 may be required to forfeit not less than \$75 nor more than \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction within a year 3 years ✓

SECTION 5. 346.49 (2m) (c) of the statutes is created to read:

346.49 (2m) (c) Any person violating s. 346.445 may be required to forfeit not less than \$75 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction ✓ within a year 3 years ✓

SECTION 6. 346.49 (2r) (a) of the statutes is amended to read:

346.49 (2r) (a) A vehicle owner or other person found liable under s. 346.452 with respect to a violation of s. 346.44 may be required to forfeit not more than \$1,000 for the first offense and not more than \$3,000 for the 2nd or subsequent conviction ✓ within a year ✓ except that, if the vehicle involved in the violation was a bicycle, the bicycle owner or other person may be required to forfeit not less than \$75 nor more than \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction within a year ✓

SECTION 7. 346.49 (2r) (b) of the statutes is amended to read:

346.49 (2r) (b) A vehicle owner or other person found liable under s. 346.452 with respect to a violation of s. 346.45 shall forfeit not less than \$60 nor more than \$600 for the first conviction and not less than \$180 nor more than \$1,800 for the 2nd or subsequent conviction ✓ within a year ✓

SECTION 8. 346.49 (2v) of the statutes is created to read:

346.49 (2v) The court may <sup>shall</sup> order a person subject to <sup>or (b) ✓</sup> (to) sub. (2m) (a) to participate in driver safety education and satisfactorily complete a written examination on railroad safety.

1       **SECTION 9.** 346.495 (1) (a) of the statutes is amended to read:

346.495 (1) (a) If a court imposes a forfeiture under s. 346.49 (1g) or (2m) (a),  
(am), ~~or (b), or (c)~~ for a violation of s. 346.44, 346.445, 346.45, or 346.46 (3), the court  
shall also impose a railroad crossing improvement surcharge under ch. 814 equal to  
50% of the amount of the forfeiture.

6           **SECTION 10. Initial applicability.**

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

10                    **SECTION 11. Effective date.**

11 (1) This act takes effect on the first day of the (third) month beginning after  
12 publication.

13 (END)

## Mueller, Eric

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**From:** Egerer, Matt  
**Sent:** Tuesday, December 10, 2013 2:25 PM  
**To:** Mueller, Eric  
**Subject:** RE: Draft review: LRB -1936/P3 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Lets go with #2 and remove it then. That seems best.

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504

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**From:** Mueller, Eric  
**Sent:** Monday, December 09, 2013 4:27 PM  
**To:** Egerer, Matt  
**Subject:** RE: Draft review: LRB -1936/P3 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Matt,

I think these are the three options:

1. If you're comfortable with the possibility, if the elements of both statutes are satisfied, that a person could be charged with violating both 192.32 and 346.445 (1), nothing needs to be changed.
2. If you want the penalty under s. 192.32 to apply, it is probably best to simply remove s. 346.445 (1) since everything in that section appears to be covered by s. 192.32 and s. 346.445 (1) isn't necessary for the remaining portions of the bill.
3. If you want only the penalty under s. 346.445 (1) to apply when the elements of s. 346.445 (1) are satisfied, we should probably add a qualifier to s. 192.32. Basically, "Except as provided in s. 346.445 (1) ..."

Eric Mueller  
Attorney, Legislative Reference Bureau  
Phone: (608)261-7032  
[eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

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**From:** Egerer, Matt  
**Sent:** Monday, December 09, 2013 2:07 PM  
**To:** Mueller, Eric  
**Subject:** RE: Draft review: LRB -1936/P3 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Eric,

I think clarifying would work. You'd know better than I, but could we essentially reference to 192.32 in 346.445 (1)?

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504

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**From:** Mueller, Eric  
**Sent:** Friday, December 06, 2013 10:54 AM

**To:** Egerer, Matt

**Subject:** RE: Draft review: LRB -1936/P3 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Matt,

I agree that the conduct covered by s. 346.445 (1) appears to be also covered by s. 192.32. Having both in the statutes would lead to one of two possible results:

1. Since 346.445 (1) is more specific, it could be read to exclusively cover the subset of pedestrians entering active railroad tracks.
2. Since s. 346.445 (1) and s. 192.32 do not have the same elements, a person who violates both could be charged under both.

Would you like to remove s. 346.445 (1) from this draft or otherwise clarify its relation to s. 192.32?

Eric Mueller

Attorney, Legislative Reference Bureau

Phone: (608)261-7032

[eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

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**From:** Egerer, Matt

**Sent:** Monday, December 02, 2013 10:31 AM

**To:** Mueller, Eric

**Subject:** RE: Draft review: LRB -1936/P3 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Eric,

As I was researching rail issues to put together a memo on LRB 1936/P3 I found another statute which would seem to duplicate aspects of this bill and I wanted to smooth them out.

192.32 bans trespassing on railroad property, including being on the tracks. We want to keep that and maybe build our bill around it. The concern arose that someone violating 192.32 would also be violating the provision against being on the track in our bill. From our perspective, the important thing that our bill draft adds is the focus on people who race to cross while a train is coming, including jumping the gates.

The penalty for violating 192.32 is \$100-200, so we would like to increase the fines in our bill draft from \$75-250 to \$100-250 for the provisions related to the prohibited crossings that had the lower lip of \$75:

1. A traffic officer/rail employee signals to stop
2. A warning signal says to stop
3. A train is approaching or occupying the tracks
4. crossing through, around, over, or under a crossing gate/barrier while it is in use.
5. Provision for bicycles

Thanks for your help,

Matt Egerer

Office of Representative Peter Barca

Assembly Democratic Leader

608.266.5504



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**From:** Mueller, Eric  
**Sent:** Tuesday, October 22, 2013 2:49 PM  
**To:** Egerer, Matt  
**Subject:** RE: Draft review: LRB -1936/P3 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Matt,

It's possible that current law already does what you're requesting. Under current law, if a violation is charged as a state offense, the county would retain 50% and send to the state 50% of the forfeiture money. See 59.25 (3) (j). However, if a political subdivision enacts an ordinance replicating the statute, the political subdivision can charge the violation as an ordinance violation and retain 100% of the forfeiture.

Eric Mueller  
Attorney, Legislative Reference Bureau  
Phone: (608)261-7032  
[eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

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**From:** Egerer, Matt  
**Sent:** Tuesday, October 22, 2013 1:21 PM  
**To:** Mueller, Eric  
**Subject:** Draft review: LRB -1936/P3 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Eric,

We got a request that the fines outlined in the bill go to the unit of government charged with enforcement of the bill. Can we make that change?

Matt Egerer  
Office of Representative Peter Barca  
Assembly Democratic Leader  
608.266.5504



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1936/P3 184  
EVM:sac&jld:60

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RNR

12/19/13

regen

Soon

1 AN ACT *to amend* 346.49 (2m) (a), 346.49 (2m) (am), 346.49 (2m) (b), 346.49 (2r)  
2 (a), 346.49 (2r) (b) and 346.495 (1) (a); and *to create* 346.445, 346.49 (2m) (c)  
3 and 346.49 (2v) of the statutes; **relating to:** pedestrians crossing railroad  
4 tracks and penalties for violations relating to railroad crossings and providing  
5 a penalty.

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***Analysis by the Legislative Reference Bureau***

Under current law, the operator of a vehicle may not drive on or across a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. In addition, the operator of a vehicle may not drive through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. A person who violates any of these prohibitions may be required to forfeit not more than \$1,000, except the maximum forfeiture for a bicyclist or operator of an electric personal assistive mobility device is \$40.

Current law also requires the operator of certain vehicles, including school buses, motor buses, and vehicles that are transporting certain hazardous substances, with limited exceptions, to stop within 50 feet but not less than 15 feet from the nearest track and take certain precautions before proceeding. An operator who fails to comply with this requirement may be required to forfeit not less than \$60 nor more than \$600.

Current law also imposes, with exceptions, liability on the owner of a vehicle that is observed violating either of the railroad crossing provisions. The penalty imposed on the owner under this provision is the same as the penalty for the underlying railroad crossing violation.

Current law also provides that a railroad crossing improvement assessment be imposed on any person found to have violated traffic laws relating to railroad crossings. The amount of the assessment is equal to 50 percent of the amount of the forfeiture that is imposed upon conviction. The money collected from the assessment must be used to fund railroad crossing protection improvements, such as automatic signals or other warning devices, and their maintenance.

This bill creates limitations on the use of railroad crossings and on crossing railroad tracks by pedestrians. Under this bill, a pedestrian may not enter or remain on railroad tracks except when crossing at a railroad crossing. This bill also prohibits a pedestrian from crossing a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. The bill also prohibits a pedestrian from crossing through, around, over, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed or a railroad train while the train occupies a railroad crossing. A person who violates any of the provisions related to pedestrians crossing railroad crossings or railroad tracks may be required to forfeit not less than ~~\$75~~ nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the second or subsequent conviction within three years. A person who violates any of these provisions is also subject to the railroad crossing improvement assessment.

This bill also increases the penalty for railroad crossing violations committed by a bicyclist or operator of an electric personal assistive mobility device to not less than ~~\$75~~ nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the second or subsequent conviction within three years. The bill also triples minimum and maximum penalties for second or subsequent convictions committed within three years for other railroad crossing violations and requires that a court require a person convicted of a railroad crossing violation participate in certain driver safety education.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**346.445 Limitations on pedestrians crossing railroad tracks.** (1) No

pedestrian may enter or remain upon any track upon which railroad trains or railroad track equipment operate other than to cross at a railroad crossing.

<sup>no 11</sup> ~~(2)~~ <sup>(1)</sup> No pedestrian may enter or cross a railroad crossing under any of the following circumstances:

(a) While a traffic officer or railroad employee signals to stop.

(b) While a warning device signals to stop, except that if the pedestrian after stopping and investigating finds that no railroad train or railroad track equipment is approaching, the pedestrian may proceed.

(c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the crossing, while a railroad train or railroad track equipment occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.

~~(3)~~ <sup>(2)</sup> No pedestrian may cross through, around, over, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

~~(4)~~ <sup>(3)</sup> No pedestrian may cross through or around or climb over or under a railroad train or railroad track equipment while the railroad train or railroad track equipment occupies a railroad crossing.

**SECTION 2.** 346.49 (2m) (a) of the statutes is amended to read:

346.49 (2m) (a) Unless otherwise provided in par. (b), any person violating s. 346.44 may be required to forfeit not more than \$1,000 for the first offense and not more than \$3,000 for the 2nd or subsequent conviction within 3 years.

**SECTION 3.** 346.49 (2m) (am) of the statutes is amended to read:

1           346.49 (2m) (am) Any person violating s. 346.45 shall forfeit not less than \$60  
2           nor more than \$600 for the first offense and not less than \$180 nor more than \$1,800  
3           for the 2nd or subsequent conviction within 3 years.

4           SECTION 4. 346.49 (2m) (b) of the statutes is amended to read:

5           346.49 (2m) (b) Any operator of a bicycle or electric personal assistive mobility  
6           device violating s. 346.44 may be required to forfeit not ~~less than \$75~~<sup>\$100</sup> nor more than  
7           \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd  
8           or subsequent conviction within 3 years.

9           SECTION 5. 346.49 (2m) (c) of the statutes is created to read:

10          346.49 (2m) (c) Any person violating s. 346.445 may be required to forfeit not  
11          less than ~~\$75~~<sup>\$100</sup> nor more than \$250 for the first offense and not less than \$225 nor more  
12          than \$750 for the 2nd or subsequent conviction within 3 years.

13          SECTION 6. 346.49 (2r) (a) of the statutes is amended to read:

14          346.49 (2r) (a) A vehicle owner or other person found liable under s. 346.452  
15          with respect to a violation of s. 346.44 may be required to forfeit not more than \$1,000  
16          for the first offense and not more than \$3,000 for the 2nd or subsequent conviction  
17          within 3 years, except that, if the vehicle involved in the violation was a bicycle, the  
18          bicycle owner or other person may be required to forfeit not ~~less than \$75~~<sup>\$100</sup> nor more  
19          than \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the  
20          2nd or subsequent conviction within 3 years.

21          SECTION 7. 346.49 (2r) (b) of the statutes is amended to read:

22          346.49 (2r) (b) A vehicle owner or other person found liable under s. 346.452  
23          with respect to a violation of s. 346.45 shall forfeit not less than \$60 nor more than  
24          \$600 for the first conviction and not less than \$180 nor more than \$1,800 for the 2nd  
25          or subsequent conviction within 3 years.

**SECTION 8.** 346.49 (2v) of the statutes is created to read:

346.49 (2v) The court shall order a person subject to sub. (2m) (a) or (b) to participate in driver safety education and satisfactorily complete a written examination on railroad safety.

**SECTION 9.** 346.495 (1) (a) of the statutes is amended to read:

346.495 (1) (a) If a court imposes a forfeiture under s. 346.49 (1g) or (2m) (a), (am), ~~or (b), or (c)~~ for a violation of s. 346.44, 346.445, 346.45, or 346.46 (3), the court shall also impose a railroad crossing improvement surcharge under ch. 814 equal to 50% of the amount of the forfeiture.

## SECTION 10. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

**SECTION 11. Effective date.**

(1) This act takes effect on the first day of the 3rd month beginning after publication.

**(END)**

## Mueller, Eric

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**From:** LRB.Legal  
**Sent:** Friday, January 24, 2014 11:30 AM  
**To:** Mueller, Eric  
**Subject:** FW: Draft review: LRB -1936/P4 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Hi Eric, Could you please make this a /1? Looks like that is what they want.

Thanks ☺

Lori

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**From:** Rep.Barca  
**Sent:** Friday, January 24, 2014 11:14 AM  
**To:** LRB.Legal  
**Subject:** RE: Draft review: LRB -1936/P4 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Can I get this as a final draft for today?

---

**From:** LRB.Legal  
**Sent:** Thursday, December 19, 2013 2:45 PM  
**To:** Rep.Barca  
**Subject:** Draft review: LRB -1936/P4 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

**Following is the PDF version of draft LRB -1936/P4.**



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1936/P4  
EVM:sac&jld/jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMK

No. changes

1/24/14

gen act

Today

1 AN ACT *to amend* 346.49 (2m) (a), 346.49 (2m) (am), 346.49 (2m) (b), 346.49 (2r)  
2 (a), 346.49 (2r) (b) and 346.495 (1) (a); and *to create* 346.445, 346.49 (2m) (c)  
3 and 346.49 (2v) of the statutes; **relating to:** pedestrians crossing railroad  
4 tracks and penalties for violations relating to railroad crossings and providing  
5 a penalty.

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***Analysis by the Legislative Reference Bureau***

Under current law, the operator of a vehicle may not drive on or across a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. In addition, the operator of a vehicle may not drive through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. A person who violates any of these prohibitions may be required to forfeit not more than \$1,000, except the maximum forfeiture for a bicyclist or operator of an electric personal assistive mobility device is \$40.

Current law also requires the operator of certain vehicles, including school buses, motor buses, and vehicles that are transporting certain hazardous substances, with limited exceptions, to stop within 50 feet but not less than 15 feet from the nearest track and take certain precautions before proceeding. An operator who fails to comply with this requirement may be required to forfeit not less than \$60 nor more than \$600.



Current law also imposes, with exceptions, liability on the owner of a vehicle that is observed violating either of the railroad crossing provisions. The penalty imposed on the owner under this provision is the same as the penalty for the underlying railroad crossing violation.

Current law also provides that a railroad crossing improvement assessment be imposed on any person found to have violated traffic laws relating to railroad crossings. The amount of the assessment is equal to 50 percent of the amount of the forfeiture that is imposed upon conviction. The money collected from the assessment must be used to fund railroad crossing protection improvements, such as automatic signals or other warning devices, and their maintenance.

This bill creates limitations on the use of railroad crossings and on crossing railroad tracks by pedestrians. Under this bill, a pedestrian may not enter or cross a railroad crossing while: 1) any traffic officer or railroad employee signals to stop; 2) any warning device signals to stop, subject to an exception; or 3) any railroad train occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision, if the crossing is posted with a crossbuck sign. The bill also prohibits a pedestrian from crossing through, around, over, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed or a railroad train while the train occupies a railroad crossing. A person who violates any of the provisions related to pedestrians crossing railroad crossings or railroad tracks may be required to forfeit not less than \$100 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the second or subsequent conviction within three years. A person who violates any of these provisions is also subject to the railroad crossing improvement assessment.

This bill also increases the penalty for railroad crossing violations committed by a bicyclist or operator of an electric personal assistive mobility device to not less than \$100 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the second or subsequent conviction within three years. The bill also triples minimum and maximum penalties for second or subsequent convictions committed within three years for other railroad crossing violations and requires that a court require a person convicted of a railroad crossing violation participate in certain driver safety education.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1           **SECTION 1.** 346.445 of the statutes is created to read:
- 2           **346.445 Limitations on pedestrians crossing railroad tracks.** (1) No
- 3           pedestrian may enter or cross a railroad crossing under any of the following
- 4           circumstances:

1 (a) While a traffic officer or railroad employee signals to stop.

2 (b) While a warning device signals to stop, except that if the pedestrian after  
3 stopping and investigating finds that no railroad train or railroad track equipment  
4 is approaching, the pedestrian may proceed.

5 (c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the  
6 crossing, while a railroad train or railroad track equipment occupies the crossing or  
7 approaches so closely to the crossing as to constitute a hazard of collision.

8 (2) No pedestrian may cross through, around, over, or under any crossing gate  
9 or barrier at a railroad crossing while the gate or barrier is closed or is being opened  
10 or closed.

11 (3) No pedestrian may cross through or around or climb over or under a railroad  
12 train or railroad track equipment while the railroad train or railroad track  
13 equipment occupies a railroad crossing.

14 **SECTION 2.** 346.49<sup>✓</sup> (2m) (a) of the statutes is amended to read:

15 346.49 (2m) (a) Unless otherwise provided in par. (b), any person violating s.  
16 346.44 may be required to forfeit not more than \$1,000 for the first offense and not  
17 more than \$3,000 for the 2nd or subsequent conviction within 3 years.

18 **SECTION 3.** 346.49<sup>✓</sup> (2m) (am) of the statutes is amended to read:

19 346.49 (2m) (am) Any person violating s. 346.45 shall forfeit not less than \$60  
20 nor more than \$600 for the first offense and not less than \$180 nor more than \$1,800  
21 for the 2nd or subsequent conviction within 3 years.

22 **SECTION 4.** 346.49<sup>✓</sup> (2m) (b) of the statutes is amended to read:

23 346.49 (2m) (b) Any operator of a bicycle or electric personal assistive mobility  
24 device violating s. 346.44 may be required to forfeit not less than \$100 nor more than

1 \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd  
2 or subsequent conviction within 3 years.

3 **SECTION 5.** 346.49<sup>✓</sup> (2m) (c) of the statutes is created to read:

4 346.49 (2m) (c) Any person violating s. 346.445 may be required to forfeit not  
5 less than \$100 nor more than \$250 for the first offense and not less than \$225 nor  
6 more than \$750 for the 2nd or subsequent conviction within 3 years.

7 **SECTION 6.** 346.49<sup>✓</sup> (2r) (a) of the statutes is amended to read:

8 346.49 (2r) (a) A vehicle owner or other person found liable under s. 346.452  
9 with respect to a violation of s. 346.44 may be required to forfeit not more than \$1,000  
10 for the first offense and not more than \$3,000 for the 2nd or subsequent conviction  
11 within 3 years, except that, if the vehicle involved in the violation was a bicycle, the  
12 bicycle owner or other person may be required to forfeit not less than \$100 nor more  
13 than \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the  
14 2nd or subsequent conviction within 3 years.

15 **SECTION 7.** 346.49<sup>✓</sup> (2r) (b) of the statutes is amended to read:

16 346.49 (2r) (b) A vehicle owner or other person found liable under s. 346.452  
17 with respect to a violation of s. 346.45 shall forfeit not less than \$60 nor more than  
18 \$600 for the first conviction and not less than \$180 nor more than \$1,800 for the 2nd  
19 or subsequent conviction within 3 years.

20 **SECTION 8.** 346.49<sup>✓</sup> (2v) of the statutes is created to read:

21 346.49 (2v) The court shall order a person subject to sub. (2m) (a) or (b) to  
22 participate in driver safety education and satisfactorily complete a written  
23 examination on railroad safety.

24 **SECTION 9.** 346.495<sup>✓</sup> (1) (a) of the statutes is amended to read:

346.495 (1) (a) If a court imposes a forfeiture under s. 346.49 (1g) or (2m) (a), (am), ~~or (b), or (c)~~ for a violation of s. 346.44, 346.445, 346.45, or 346.46 (3), the court shall also impose a railroad crossing improvement surcharge under ch. 814 equal to 50% of the amount of the forfeiture.

**SECTION 10. Initial applicability.**

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

**SECTION 11. Effective date.**

(1) This act takes effect on the first day of the 3rd month beginning after publication.

**(END)**

**Parisi, Lori**

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**From:** Rep.Barca  
**Sent:** Friday, January 24, 2014 3:03 PM  
**To:** LRB.Legal  
**Subject:** RE: Draft review: LRB -1936/P4 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

It can be immediately jacketed as well.

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**From:** Rep.Barca  
**Sent:** Friday, January 24, 2014 11:14 AM  
**To:** LRB.Legal  
**Subject:** RE: Draft review: LRB -1936/P4 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

Can I get this as a final draft for today?

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**From:** LRB.Legal  
**Sent:** Thursday, December 19, 2013 2:45 PM  
**To:** Rep.Barca  
**Subject:** Draft review: LRB -1936/P4 Topic: Pedestrians crossing railroad tracks; penalties for railroad crossing violations

**Following is the PDF version of draft LRB -1936/P4.**